

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	07-00335-02-03-CR-W-SOW
MARICRUZ A. REYES-HERRERA,)	
and)	
JOSE M. MAYORGA-AYON,)	
)	
Defendants.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on December 20, 2007. Defendant Reyes-Herrera appeared in person and with her counsel John Duma. Defendant Mayorga-Ayon appeared in person and with his counsel Jack West and Jeff Goodwin. The United States of America appeared by Assistant United States Attorney Bruce Rhoades.

I. BACKGROUND

On October 3, 2007, an indictment was returned charging both defendants with one count of conspiracy to distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(B) and 846; and one count of possession with the intent to distribute marijuana, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B) and 18 U.S.C. § 2.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Rhoades announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Dennis Paquette, Kansas City, Missouri Police Department.

Mr. Duma announced that he will be the trial counsel for defendant Reyes-Herrera.

Mr. West announced that he and Mr. Goodwin will be the trial counsel for defendant Mayorga-Ayon.

III. OUTSTANDING MOTIONS

There are two motions currently pending: (1) Defendant Reyes-Herrera's Motion in limine (Doc. No. 48), filed November 23, 2007; and (2) the Government's Motion For Leave to File its Response Out of Time (Doc. No. 49), filed December 6, 2007.

IV. TRIAL WITNESSES

Mr. Rhoades announced that the government intends to call five to seven witnesses with or without stipulations during the trial.

Mr. Duma announced that defendant Reyes-Herrera does not intend to call any witnesses during the trial. Defendant Reyes-Herrera may testify.

Mr. West announced that defendant Mayorga-Ayon does not intend to call any witnesses during the trial. Defendant Mayorga-Ayon may testify.

V. TRIAL EXHIBITS

Mr. Rhoades announced that the government will offer approximately twenty exhibits in evidence during the trial.

Mr. Duma announced that defendant Reyes-Herrera will offer three to five exhibits in evidence during the trial.

Mr. West announced that defendant Mayorga-Ayon will not offer any exhibits in evidence during the trial.

VI. DEFENSES

Mr. Duma announced that defendant Reyes-Herrera will rely on the defense of general denial.

Mr. West announced that defendant Mayorga-Ayon will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Duma stated this case is definitely for trial.

Mr. West stated this case is probably not for trial.

VIII. STIPULATIONS

Stipulations are not appropriate in this case.

IX. TRIAL TIME

Counsel were in agreement that this case will take two to three days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed December 20, 2007, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by or before Thursday, December 20, 2007;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, January 2, 2008;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, January 2, 2008. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

XI. UNUSUAL QUESTIONS OF LAW

Motions in limine on the following issues will probably be filed (1) Defendant Reyes-Herrera's immigration status; (2) 404(b). There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on January 7, 2008.

A Spanish-speaking interpreter is required. Defense counsel suggests two interpreters be present if both defendants proceed to trial, so that attorney-client material is not disclosed to a co-defendant.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
December 20, 2007

cc: The Honorable Scott O. Wright
Mr. Bruce Rhoades
Mr. John Duma
Mr. Jack West
Mr. Jeff Burkholder